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5 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 MELANIE E. BROWN,

8 Plaintiff,

9 v.

10 COWLITZ COUNTY, a Washington
Municipal Corporation, and the Honorable
11 STEPHEN M. WARNING, Judge of the
Cowlitz County Superior Court, and the
12 COWLITZ COUNTY SUPERIOR COURT,

13 Defendants.

Case No. C09-5090 FDB

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

14 This matter comes before the Court on Plaintiff's motion for reconsideration of this Court's
15 Order granting Defendants' motion for summary judgment of dismissal of Plaintiff's claims. The
16 Court, having reviewed the motion for reconsideration and the record herein, is fully informed and
17 hereby denies the motion for reconsideration for the reasons stated herein.

18 Plaintiff submits that the Court misapprehended the burden of Proof on Defendant Cowlitz
19 County arising from its amendment of its policy respecting service animals and that the amended
20 policy violates federal and state law.

21 Pursuant to Local Rules W.D. Wash. CR 7(h)(1), motions for reconsideration are disfavored,
22 and will ordinarily be denied unless there is a showing of (a) manifest error in the prior ruling, or (b)
23 facts or legal authority which could not have been brought to the attention of the court earlier,
24 through reasonable diligence. Plaintiff has not made the requisite showing as to either of the
25 grounds for reconsideration under CR 7(h)(1).

1 Initially, it must be noted that Plaintiff failed to respond to the motion for summary
2 judgment. Local Rule CR 7(b)(2) requires each party opposing a motion to file a response. The rule
3 states, in relevant part that “[i]f a party fails to file the papers in opposition to a motion, such failure
4 may be considered by the court as an admission that the motion has merit.” Thus, Plaintiff should
5 not now be entitled to argue in a motion for reconsideration that the motion lacked merit. Also,
6 Plaintiff should not be permitted to raise in a motion for reconsideration those arguments that should
7 have been raised in a response to the motion for summary judgment. Further, any argument that
8 Plaintiff lacked sufficient time to respond to the motion for reconsideration is also without merit.
9 Plaintiff had the opportunity, pursuant to Fed. R. Civ. P. 56(f), to make a showing that additional
10 time was required to muster the facts. Plaintiff failed to present any affidavit justifying a
11 continuance.

12 Additionally, Plaintiff has failed to establish that the Court committed manifest error in its
13 prior ruling. The complained of County policy on service animals has been rescinded and replaced
14 with a new policy that provides for “task / function” requirements that are in compliance with the
15 ADA. See NASD Dispute Resolution, Inc. v. Judicial Council, 488 F.3d 1065, 1068 (9th Cir.
16 2007); Hubbard v. 7-Eleven, Inc., 433 F. Supp.2d 1134 (S.D. Cal. 2006); Grill v. Costco, 312 F.
17 Supp. 2d 1349 (W.D. Wash. 2004); Dilorenzo v. Costco, 515 F. Supp 2d 1187(W.D. Wash. 2007).


18 For the foregoing reasons, Plaintiff’s motion for reconsideration is denied.

19 ACCORDINGLY;

20 IT IS ORDERED:

21 Plaintiff Melanie Brown’s Motion for Reconsideration [Dkt. # 30] is **DENIED**.

22 DATED this 28th day of December, 2009.

23 
24 FRANKLIN D. BURGESS
25 UNITED STATES DISTRICT JUDGE